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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,485	05/25/2001	Scott D. Feighner	20251P	8604

210 7590 10/02/2003

MERCK AND CO INC
P O BOX 2000
RAHWAY, NJ 070650907

EXAMINER

BASI, NIRMAL SINGH

ART UNIT	PAPER NUMBER
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1646

DATE MAILED: 10/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/719,485

Applicant(s)
Feighner et al

Examiner
Nirmal S. Basi

Art Unit
1646



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 29, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so
5 linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37
CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the
claims must be restricted. The invention must be elected from among the following Groups:

Group I, claims 1-6 drawn to a G protein coupled receptor (motilin receptor) disclosed in
SEQ ID NO:2, 3, 4 and 5, and method for determining whether a ligand is capable of binding to a
10 motilin receptor.

Group II, claims 1, 2, 7 and 8 drawn to a G protein coupled receptor protein (motilin
receptor) disclosed in SEQ ID NO:7, and method for determining whether a ligand is capable of
binding to a motilin receptor..

The inventions listed as Groups I - II do not relate to a single general inventive concept under
15 PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding technical feature
for the following reasons. Group I is drawn to a G protein coupled receptor (motilin receptor)
disclosed in SEQ ID NO:2, 3, 4 and 5 and method for determining whether a ligand is capable of
binding to a motilin receptor.

Claim I claims a motilin receptor, substantially free from receptor-associated proteins. The
20 name motilin receptor provides no guidance on the structure of claimed receptor from which the

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special technical feature can be determined. The term motilin receptor carries no weight in terms of defining a structure to the claimed G protein coupled receptor. The structure of the receptor is provided by SEQ ID NOs:2-5 and 7. Accordingly the special technical feature of the invention has been determined to be the human motilin receptor disclosed by SEQ ID NO:s:2-5 (Group I). The puffer fish motilin receptor of Group II is disclosed in SEQ ID NO:7 is structurally different and not containing the special technical feature of the invention of Group I. The regions of the receptor which relate structure to function for Group I are not disclosed. Accordingly, these claims are subject to restriction under U.S.C. § 121. Because the products do not share the same or a corresponding special technical feature, unity of invention is lacking. The claims are not so linked by a special technical feature within the meaning of PCT Rule 13.2 so as to form a single inventive concept.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nirmal Basi whose telephone number is (703) 308-9435. The examiner can normally be reached on Monday-Friday from 9:00 to 5:30.

5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308-6564. The fax phone number for this Group is (703) 308-0294.

Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

10 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Nirmal S. Basi *NSB*
Art Unit 1646
September 30, 2003

Michael D. Pak
MICHAEL PAK
PRIMA FILING CLERK